

**REMARKS**

Claims 1 and 3 to 6 are currently pending in the application. Claims 1 to 5 were rejected under 35 U.S.C. §§ 102(b) and 103(a). Claims 1 and 3 through 5 are also the subject of a provisional rejection for obviousness type double patenting over copending patent Application No. 10/844,640.

**Claim Amendments**

Applicant has amended Claim 1 to recite the limitation of former Claim 2. No new matter has been added.

Applicant has canceled Claim 2.

Applicant has amended Claim 3 merely to insert the word “composition” following resin. No new matter has been added.

Applicant has amended Claim 5 to independent form and added the limitation of former Claim 2. No new matter has been added.

Applicant has added new Claim 6, which recites the same limitation of Claim 3. No new matter has been added.

**Information Disclosure Statement**

Applicant herewith submits an Information Disclosure Statement for consideration by Examiner.

**Double Patenting Rejection**

Applicant respectfully requests that the double patenting rejection over copending Application No. 10/844,640 is moot as the limitation of former Claim 2 has been added to Claims 1 and 5.

**Rejections under 35 U.S.C. §§ 102(b) and 103(a)**

The Examiner has cited two separate references as individually rendering Claims 1 through 5 either anticipated or obvious. As the Examiner has cited the references individually, Applicant will address the references in the same manner.

Claims 1 and 5 are the independent claims. Claim 1 recites a resin composition consisting essentially of about 70% to about 95% by weight of a polypropylene homopolymer having less than 3% by weight xylene solubles and a crystallinity of at least 55%, and about 5% to about 30% by weight of an ethylene/propylene random copolymer containing from about 0.5% to about 7.0% ethylene by weight.

Claim 5 recites a resin composition consisting essentially of about 70% to about 85% of a polypropylene homopolymer having less than 3% by weight xylene solubles and a crystallinity of at least 55% and about 15% to about 30% by weight of an ethylene/propylene random copolymer, said ethylene/propylene random copolymer containing from about 0.5% to about 7.0% ethylene by weight.

**Rejection over U.S. Patent No. 6,346,580**

Claims 1 through 5 have been rejected under 35 U.S.C. § 102(b) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,346,580 to Fujita *et al.* ("Fujita"). Applicant traverses this rejection.

Claims 1 and 5 were discussed above.

Fujita discloses a polymer composition comprising 5 to 50 percent by weight of a polypropylene homopolymer A and 50 to 95 percent by weight of a polymer B. Polymer A is disclosed as having an intrinsic viscosity measured in tetralin at 135° C of at least 1.2 dl/g and a heptane insoluble portion of 5.0 to 50 percent. Polymer B is disclosed as being either a polypropylene homopolymer (B1) having an isotactic pentad fraction of 0.970 or more, or

blend of at least 65 percent by weight of polymer (B1) with up to 35 percent by weight of an ethylene/propylene random copolymer (B2).

It is asserted that when polymer B as disclosed by Fujita comprises a blend of (B1) and (B2) that Fujita anticipates or renders obvious Claim 1.

In response to the previous Office Action Applicant pointed out that Fujita does not teach or disclose “random copolymers” as would be understood by one of ordinary skill in the art. Rather, Fujita teaches and discloses ethylene/propylene (EP) rubber. In contrast the instant claims recite ethylene/propylene random copolymers. Specifically, Applicant directed Examiner to column 8, lines 22 to 26 of Fujita. This section of Fujita explicitly states that the copolymers of Fujita contain from 20 to 60 percent ethylene. It is apparent that although Fujita states throughout that its copolymers are random copolymers, they are in fact EP rubber, as evidenced by this disclosure. Applicant further submitted selected pages from the Polypropylene Handbook, *Moore et al.*, © Carl Hanser Verlag, Munich Vienna New York, 1996, which made the difference between Fujita and the instantly claimed invention apparent. At page 5, a comparison of random copolymers and impact copolymers is provided. As shown, impact copolymers comprises a blend of a propylene homopolymer and ethylene propylene rubber, which has a much higher ethylene content than a random copolymer. Applicant respectfully submits that the description of the copolymers (B2) in Fujita corresponds to ethylene propylene rubber, making its blends impact copolymers. This conclusion is buttressed by reference to Example 6 at column 13, lines 20 to 51. The Example discloses an ethylene/propylene copolymer that is a blend of a propylene homopolymer and an ethylene propylene “random copolymer” where the total ethylene content of the composition is 4.7 percent (lines 40-41) and the content of “random copolymer” in the composition is 17.3 percent (lines 41-43). Applicant respectfully submits

that this translates to an ethylene content in the “random copolymer” of approximately 27 percent ( $4.7/0.173 = 27.16$ ). This is consistent with the disclosure at column 8 and the description in the Polypropylene Handbook.

Nonetheless, both of Claims 1 and 5 recite an ethylene/propylene random copolymer containing 0.5 to 7 percent by weight ethylene. This is vastly different from the 20 to 60 percent ethylene range disclosed by Fujita, and the 27 percent ethylene content specifically disclosed in Example 6. Examiner asserts that the 20 to 60 percent range is merely disclosed as being preferred. However, 20 to 60 percent is the only range disclosed by Fujita. Applicant respectfully submits that the Examiner is reading disclosure into Fujita in order to establish an anticipation or obviousness rejection.

Applicant therefore respectfully submits that Claims 1 and 5 cannot be anticipated by or rendered obvious by Fujita. Further, their respective dependent claims cannot be anticipated or obvious. Reconsideration is respectfully requested.

#### Rejection over U.S. Patent No. 6,225,411

Claims 1 through 5 have been rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,225,411 to Dang *et al.* (“Dang”). Applicant traverses this rejection.

Claims 1 and 5 were discussed above.

Dang discloses a composition comprising (1) a propylene homopolymer or copolymer having an isotactic index of greater than 90, and (2) a propylene homopolymer or copolymer having a crystallinity of less than 24 percent, made with a metallocene catalyst. Where the polymer (1) or (2) is a copolymer the comonomer content is less than 10 percent of ethylene or a C<sub>4</sub> to C<sub>8</sub>  $\alpha$ -olefin.

Dang discloses the isotactic index of its polymers as being the percent of polymer insoluble in xylene. Dang, col. 4, lns. 18-34. Since Dang discloses an isotactic index as low

as 90 it necessarily embraces homopolymers having a xylene soluble content as high as 10 percent. Further, in the example provided by Dang, the i-PP portion of the blend (polymer (1)) has an isotactic index of 95.4, which corresponds to a xylene soluble content of 4.6 percent. Although the xylene soluble content of the m-PP portion of the blend (polymer (2)) is not explicitly addressed, it is disclosed as having a crystallinity of less than 24 percent. Applicant respectfully submits that a polymer of such low crystallinity would possess a high xylene solubles content.

Further, the only examples provided by Dang are blends of two polypropylene homopolymers. Therefore, Dang does not disclose an example within the range of Claim 1. Dang does not discuss or recognize the importance of the variables recited in Claims 1 and 5 as “results effective variables” in the processing of BOPP films. Applicant therefore respectfully submits that there exists no motivation to modify the general disclosure of Dang to obtain the compositions as recited in Claim 1.

The Supreme Court’s recent holding in *KSR v. Teleflex*, 2007 WL 1237837 (U.S.), does not relieve the Office of the obligation to show motivation to combine or modify references in making out a *prima facie* case of obviousness. Quite to the contrary, the Supreme Court stated; “[t]o determine whether there was an apparent reason to combine the known elements in the way a patent claims, it will often be necessary to look to interrelated teachings of multiple patents; to the effects of demands known to the design community or present in the marketplace; and to the background knowledge possessed by a person having ordinary skill in the art. *To facilitate review, this analysis should be made explicit.*” *KSR v. Teleflex*, 2007 WL 1237837 (U.S.) at \*3 (emphasis added). The Examiner has made no such showing here.

Applicant therefore respectfully submits that Dang's general disclosure does not support a *prima facie* case of obviousness of Claim 1. Reconsideration is respectfully requested.

Nonetheless, Dang does not disclose each and every element of the claims. Claims 1 and 5 recites the limitation wherein the polypropylene homopolymer has a crystallinity of at least 55%. The only discussion of crystallinity in Dang is regarding polymer (2), which has a crystallinity of less than 24%. Applicant submits that, independent of the fact that Claim 1 is not obvious, since Dang does not disclose every feature of Claims 1 and 5, those claims cannot be obvious over Dang. Reconsideration is respectfully requested.

### **CONCLUSION**

Applicant believes that the foregoing remarks have overcome or rendered moot all grounds for rejection or objection. There being no other rejections or objections, Applicant believes that the application is in a condition for allowance. Applicant therefore respectfully requests prompt action on the claims and allowance of the application. If the Examiner believes that personal communication will expedite prosecution of the application, the Examiner is invited to telephone Applicant's undersigned attorney directly.

**AUTHORIZATION**

Applicant believes that a two month extension of time is required to make submission of this response timely. However, in the event that an extension of time beyond this is required, Applicant hereby submits a petition for such extension of time as may be necessary to make this response timely. The Commissioner is hereby authorized to charge the necessary fees to deposit account No. 50-0573. A duplicate of this authorization is enclosed.

Respectfully Submitted,

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**Customer No. 023973**

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